

335-8-1-.09 Review Process for Federally Regulated Activities.

(1) Pursuant to 15 CFR Part 930, Subpart D, uses which are federally licensed or permitted activities affecting the coastal area are required to be conducted in a manner consistent with the management program. The Department shall review and respond to a federal license or permit applicant's consistency certification in accordance with the provisions of 15 CFR Part 930, Subpart D.

(a) The federal license and permit activities which are subject to review, listed pursuant to 15 CFR Part 930, Subpart D, are:

| Agency | Licenses and Permits | Citation |
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| Department of Defense | Permits required under section 10 and 11 of the River and Harbor Act of 1899. | 33 U.S.C. §§ 403 and 404 |
| | Permits required under Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972. | 33 U.S.C. §§ 1413 |
| | Permits required under Section 404 of the Federal Water Pollution Control Act of 1972, as amended. | 33 U.S.C. §§ 1344 |
| Environmental Protection Agency | Permits and licenses required under Sections 401, 402, 403, 404 and 405 of the Federal Water Pollution Control Act of 1972, as amended. | 33 U.S.C. §§ 1341-1345 |
| | Permits and applications for redesignation of land areas under regulation for the prevention of significant deterioration of air quality. | 42 U.S.C. §§ 7474 and 7475 |
| | Permits required under the Marine Protection, Research and Sanctuaries Act of 1972. | 33 U.S.C. §§ 1412 |
| | All other permits for water pollution control. | |
| | All other permits for air | |

| Agency | Licenses and Permits | Citation |
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| Department of Transportation | pollution control. | |
| | All permits for solid waste control. | |
| | Permits for construction and modification of bridges and causeways in navigable waters. | 33 U.S.C. §§ 401 |
| | Permits for transporting hazardous substances and materials. | |
| Nuclear Regulatory Commission | Licenses for deep-water ports. | 15 C.F.R. §§ 158, <u>et seq.</u> |
| | Permits and licenses required for siting and construction of nuclear power plants. | |
| Federal Energy Regulatory and 808 Commission | Licenses required for non-federal hydro-electric projects and associated transmission lines under Sections 4(e) and 15 of the Federal Power Act. | 16 U.S.C. §§ 797(e) |
| | Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act. | 16 U.S.C. §§ 824a(b) |
| | Certificates required for the construction and operation of natural gas pipeline facilities, defined to include both interstate pipeline and terminal facilities under Section 7(c) of the Natural Gas Act. | 15 U.S.C. §§ 717f(c) |
| | Permission and approval required for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act. | 15 U.S.C. §§ 717f(b) |
| | Permits and licenses required for all offshore activities related to mining and oil and | 33 U.S.C. §§ 181, <u>et seq.</u> |
| Department of the Interior | | |

| Agency | Licenses and Permits | Citation |
|---------------------------|---|---|
| | gas operations. | |
| | Permits for the taking of an endangered species | Endangered Species Act 16 U.S.C. §§ 1531-1543 |
| | Permits and licenses required for geothermal operations. | Geothermal Steam Act of 1970. |
| Department of Agriculture | Permits for water easements and timbering activities on National U.S. Forest Service land. | 43 U.S.C. §§ 1716. |
| | Permits and licenses for use and occupancy of lands for hotels, resorts, summer homes, stores and facilities for industrial, commercial, educational or public use. | 16 U.S.C. §§ 497 |
| Department of Energy | Permits for the construction, operation, siting of energy facilities. | |
| Department of Commerce | Permits for research involving taking endangered species or marine mammals or for taking of marine mammals for public; display or incidental to commercial fishing. | Endangered Species Act of 1973; 16 U.S.C. §§ 1531-1543 Marine Mammal Protection Act 16 U.S.C. §§ 1361-1407. |

(b) In addition to the data and information required to be furnished to the Department with the consistency certification pursuant to 15 C.F.R. §§ 930.58, the following data and information must be provided:

1. An informational copy of the application for the license or permit;
2. A copy of the federal agency's written determination that the license or permit application is complete;
3. A copy of the federal agency's draft or proposed license or permit if a draft or proposed license or permit is required to be prepared by federal law or regulations;
4. A copy of any transcript of any public hearing conducted by the federal agency concerning the federal license or permit application and all written comments received by the federal agency during any comment period; and,

5. A copy of any Environmental Assessment or Environmental Impact Statement required under the National Environmental Policy Act §§ 102, 42 U.S.C. §§ 4332 or implementing federal regulations.

~~(c) Upon notification of a proposed federal license or permit the Department will initiate appropriate interagency coordination and identify additional information needs.~~

~~—— (d) Within 3 months of receipt of the applicant's consistency certification and the information and data required pursuant to 15 C.F.R. § 930.58, the Department will do one of the following:~~

~~—— 1. concur with the applicant's determination;~~

~~—— 2. concur with the applicant's determination subject to any conditions agreed upon pursuant to 15 C.F.R. 930.64(e);~~

~~—— 3. object to the applicant's determination; or~~

~~—— 4. notify, in writing, the applicant and federal agency of the status of the matter and the basis for further delay.~~

(2) Pursuant to 15 C.F.R. Part 930, Subpart E, any proposed activity requiring a federal license or permit which is described in detail in any plan for the exploration of, or development of, or production from, any area leased under the Outer Continental Shelf Lands Act, (43 U.S.C. 1331 et seq.), and the regulations under that Act, which is submitted to the United States Secretary of the Interior and which affects the coastal area is required to comply with the management program and to be conducted in a manner consistent with the management program. The Department shall review and respond to a federal license or permit applicant's consistency certification for the exploration of, or development of, or production from, any area leased under the Outer Continental Shelf Lands Act in accordance with the provisions of 15 CFR Part 930, Subpart E.

(a) In addition to the data and information required to be furnished to the Department pursuant to 15 C.F.R. §§ 930.7776, the applicant shall identify the following applicable documents and shall furnish copies of such documents upon request:

1. The spill contingency plan including a listing of on-rig pollution control equipment available for immediate use;

2. National Pollutant Discharge Elimination System permit issued by the U.S. Environmental Protection Agency under the Federal Water Pollution Control Act §§ 402, 33 U.S.C. §§ 1342; and

3. Environmental Assessment or Environmental Impact Statement required under the National Environmental Policy Act §§ 102, 42 U.S.C. §§ 4332 or implementing federal regulation.

~~(b) Upon receipt of the consistency certification and the required information set forth in paragraph (2)(a) of this rule, the Department will initiate~~

~~its review and appropriate interagency coordination and identify additional information needs.~~

~~—— (c) Within 3 months of receipt of the consistency certification and required information, the Department will do one of the following:~~

~~—— 1. concur with the consistency certification; or~~

~~—— 2. object to the consistency certification; or~~

~~—— 3. notify in writing the applicant, the Secretary of the Department of the Interior and the Assistant Administrator of Coastal Zone Management, NOAA, of the status and basis for further delay.~~

Author: John C. Carlton; [Michael Sherman](#).

Statutory Authority: Code of Alabama 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.

History: (effective date) June 30, 1994; (amended effective date) April 26, 1995; [XXXXXXX](#).

335-8-1-.10 Review Process for Federal Projects, Activities and Assistance.

(1) Pursuant to 15 C.F.R. Part 930, Subpart C, functions performed by or on behalf of a federal agency in the exercise of its statutory responsibilities and development projects undertaken by or on behalf of the federal agency involving the planning, construction, modification, or removal of public works, facilities, or other structures, in the acquisition, utilization, or disposal of land or water resources which affect the coastal area are required to be undertaken in a manner consistent, to the maximum extent practicable, with the management program. The Department shall review and respond to federal agency consistency determinations in accordance with the provisions of 15 C.F.R. Part 930, Subpart C.

(a) Federal activities which are subject to review, and are listed pursuant to 15 C.F.R. Part 930, Subpart C, include, but are not limited to, the following:

1. Property acquisition or disposal within the coastal area;
2. Discharge of wastes into the air or waters of the coastal area;
3. Road construction within the coastal area;
4. Disposition, design, construction, alteration or maintenance of any facilities on lands located within the coastal area;
5. Programs related to management of coastal resources;
6. Activities affecting water quality or quantity;
7. Transport of hazardous substances; and
8. Other activities that could affect coastal resources due to their size, location, or manner of construction.

~~(b) Upon notification of a proposed federal project or activity the Department will initiate appropriate interagency coordination and identify additional information needs.~~

~~(c) Within 45 days of receipt of the federal agency's determination of consistency, the Department will:~~

- ~~1. agree with the federal agency's determination; or~~
- ~~2. disagree to the federal agency's determination; or~~
- ~~3. request, in writing, an extension not to exceed 15 days.~~

(2) Pursuant to 15 C.F.R. Part 930, Subpart F, assistance provided under a federal program to any unit of state or local government, or any related public entity such as a special purpose district, through grant or contractual

arrangements, loans, subsidies, guarantees, insurance, or other form of financial aid for activities affecting the coastal area, are required to be consistent with the management program. The Department shall review and respond to applications from applicant agencies for federal assistance in accordance with the provisions of 15 C.F.R. Part 930, Subpart F.

(a) The types of federal assistance programs subject to review, and listed pursuant to 15 C.F.R. §§ 930.95 include, but are not limited to, the following:

1. Grants or loans by the U.S. Department of Agriculture, Farmers Home Administration;

2. Housing development grants by the U.S. Department of Housing and Urban Development;

3. Grants by the U.S. Department of Transportation, Federal Aviation Administration;

4. Grants or loans from the Land and Water Construction Fund by the U.S. Department of the Interior;

5. Grants or loans by the U.S. Department of Commerce for public works and development;

6. Community development block grants by the U.S. Department of Housing and Urban Development;

7. Sewage treatment construction grants or loans made directly by capitalization grants from the U.S. Environmental Protection Agency; and

8. Urban development actions grants by the U.S. Department of Housing and Urban Development.

~~—— (b) At the earliest practical time the Department will provide the applicant agency with one of the following:~~

~~—— 1. an approval of the project, with or without conditions; or~~

~~—— 2. a letter of objection to the project.~~

Author: John C. Carlton; Michael Sherman.

Statutory Authority: Code of Alabama 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.

History: (effective date) June 30, 1994; XXXXXXX.